

Ryan A. Hamilton, Esq.  
Nevada Bar No. 11587  
HAMILTON LAW  
5125 S. Durango, Suite C  
Las Vegas, NV 89113  
Phone: (702) 818-1818  
Fax: (702) 974-1139  
Ryan@hamlegal.com  
Attorney for Debtor(s)

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In Re:  
William Alvear and  
Elizabeth Alvear,  
Debtor(s).

**Case No. 12-13444-MKN  
Chapter 11**

*Adv. Proc. No.:* \_\_\_\_\_

William Alvear and Elizabeth Alvear,

Plaintiffs,

v.

MZK Residential, LLC, Ocwen Loan  
Servicing, LLC, Western Progressive,  
LLC, and Greenpoint Mortgage  
Funding, Inc., DOES 1-20; and ROE  
Corporations I-X, inclusive,

Defendants.

**ADVERSARY COMPLAINT**

1. This is a core proceeding under 28 U.S.C. § 157.
2. Debtors filed a Chapter 11 bankruptcy on March 24, 2012, in the United States Bankruptcy Court, District of Nevada, Case No. 12-13444-MKN (the “Bankruptcy”).

1 3. Defendant MZK Residential, LLC is a Nevada corporation and may be served  
2 with process through its registered agent, Travis K. Twitchell, 3137 E. Warm  
3 Springs Road, Ste. 100, Las Vegas, Nevada 89120.

4 4. Defendant Ocwen Loan Servicing, LLC is a foreign (non-Nevada)  
5 corporation and may be served with process through its registered agent, CSC  
6 Services of Nevada, Inc., 2215-B Renaissance Drive, Las Vegas, Nevada 89119.

7 5. Defendant Western Progressive, LLC is a foreign (non-Nevada) corporation  
8 and may be served with process through its registered agent, The Corporation Trust  
9 Company of Nevada, 701 S. Carson Street, Ste. 200, Carson City, Nevada 89701.

10 6. Defendant Greenpoint Mortgage Funding, Inc. is a foreign (non-Nevada)  
11 corporation and may be served with process through its registered agent CSC  
12 Services of Nevada, Inc., 2215-B Renaissance Drive, Las Vegas, Nevada 89119.

13 7. That the true names or capacities, whether individual, corporate, association  
14 or otherwise, of Defendants DOES 1 through 100, and ROE CORPORATIONS I  
15 through X, are unknown to Plaintiff, who therefore sues said Defendants by such  
16 fictitious names. DOES 1 through 100, and ROE CORPORATIONS I through X  
17 are responsible in some manner for the events and happenings referred to and  
18 caused damages proximately to the PLAINTIFFS as herein alleged, and that  
19 PLAINTIFFS will ask leave of this Court to amend their Complaint, to insert the  
20 true names and capacities of DOES 1 through 100, and ROE CORPORATIONS  
21 I through X, when the same have been ascertained and to join such Defendants in  
22 this action.

23 8. In the Bankruptcy, the Court issued an Order confirming a Plan of  
24 Reorganization (Dkt. #232).

25 9. The Order of Reorganization reorganized the debts owing on four of the  
Debtors' properties, including their property located at 2001 Cordova Street, Las  
Vegas, NV 89104 (the "Cordova Street Property").

10. Pursuant to the Order of there was a secured claim in favor of

1 Greenpoint Mortgage Funding Trust in the amount of \$80,000.00 and unsecured  
2 claim in the amount of \$189,640.33.

3 11. In addition, pursuant to the Order of Reorganization, the Note for the  
4 Cordova Street Property was modified with a new principal balance of \$80,000.00, a  
5 fixed interest rate of 5.25%, and a 30-year amortization.

6 12. The Order of Reorganization required Debtors to make principal and interest  
7 payments of \$492.57 beginning May 1, 2013. Debtors were to make to GMAC  
8 Mortgage, LLC, ATTN: Payment Processing, 2451 Hammond Avenue, Waterloo,  
9 PA 19034.

10 13. Debtors' Bankruptcy closed on May 8, 2015 (Dkt. # 244).

11 14. Debtors continued making all required payments on the Cordova Street  
12 Property.

13 15. After the close of the Bankruptcy, Debtors received notice to start making  
14 their payments on the Cordova Street property to Defendant Ocwen Loan Servicing,  
15 LLC, as servicer for Defendant Greenpoint Mortgage Funding, Inc.

16 16. Ocwen refused to accept to Debtors' payments for the Cordova Street  
17 Property under the terms of the Order of Reorganization.

18 17. On October 6, 2016, Defendant Western Progressive, LLC sold the Cordova  
19 Street Property at a foreclosure sale.

20 18. Defendant MZK Residential, LLC, purchased the Cordova Street Property at  
21 the foreclosure sale.

22 19. The foreclosure sale violated the terms of the Reorganization Order entered in  
23 Debtors' Bankruptcy.

24 20. Debtors did not receive notice of the foreclosure sale.

25 21. At the time of the foreclosure sale, Debtors were renting the Cordova Street  
property to tenants. Their tenants have now been evicted.

**First Claim of Relief**

**Wrongful Foreclosure (As to Defendants Ocwen Loan Servicing, LLC, Western  
Progressive, LLC, and Greepoint Mortgage Funding, LLC)**

1 22. Debtors incorporate by reference, as if fully set forth herein, each and every  
2 allegation set forth in the preceding paragraphs and further alleges as follows:

3 23. On or about October 6, 2016, Defendants foreclosed on Debtors' property at  
4 2001 Cordova Street, Las Vegas, NV 89104.

5 24. At the time Defendants foreclosed on Debtors' property, Debtors were  
6 were not in breach of any obligation that would have authorized Defendants to  
7 foreclose on the property.

8 **Second Claim for Relief**

9 **Quiet Title (As to all Defendants)**

10 25. Debtors incorporate by reference, as if fully set forth herein, each and every  
11 allegation set forth in the preceding paragraphs and further alleges as follows:

12 26. Defendants, by their wrongful actions, purported to divest Debtors of title to  
13 the property.

14 27. Debtors were current on their mortgage payments on the property at the time  
15 of the foreclosure sale.

16 28. Debtors claim to the property is superior to the claim of the purchasers at the  
17 foreclosure sale.

18 29. Debtors seek a reversal of the foreclosure sale with title to the property  
19 quieted in their names.

20 **Third Claim for Relief**

21 **Civil Contempt (As to Defendants Ocwen Loan Servicing, LLC, Western Progressive, LLC,  
22 and Greepoint Mortgage Funding, LLC)**

23 30. Debtors incorporate by reference, as if fully set forth herein, each and every  
24 allegation set forth in the preceding paragraphs and further alleges as follows:

25 31. Defendants had notice of the Bankruptcy Court's Reorganization Order.

32. Defendants violated the Bankruptcy Court's Reorganization Order by refusing

1 to accept Debtors' payments pursuant to the Reorganization and then foreclosing on  
2 the Cordova Street property.

3 33. As a result of Defendants' violations, Debtors are entitled to damages  
4 allowable under 11 U.S.C. 105, including compensatory damages, costs and  
5 attorney's fees.

6 **Jury Demand**

7 Debtors demand a jury trial on all issues so triable.

8 WHEREFORE Debtors pray:

- 9 1) For an Order quieting title in their name to the property 2001 Cordova Street,  
10 Las Vegas, Nevada 89104;  
11 2) For an Order setting aside the foreclosure sale 2001 Cordova Street, Las Vegas,  
12 Nevada 89104;  
13 3) For an award of compensatory damages, costs and reasonable attorney's fees  
14 arising out of Defendants' conduct alleged herein; and  
15 4) For all other just and proper relief.

16  
17 Dated this 12<sup>th</sup> day of December, 2016.

18 Respectfully submitted,

19  
20 /s/Ryan A. Hamilton  
21 Ryan A Hamilton, Esq.  
22 Attorney for Debtors  
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